

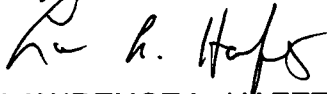
ANALYSIS

This ordinance extends Interim Ordinance No. 2005-0042U ("Interim Ordinance") for a period of 10 months and 15 days. The Interim Ordinance was originally adopted on May 31, 2005, and will expire on July 15, 2005, unless extended. If the Interim Ordinance is extended by this ordinance, it will expire on May 30, 2006.

This Interim Ordinance temporarily prohibits establishment of medical marijuana dispensaries within the unincorporated territory of the County of Los Angeles ("County") while a study is conducted to determine the appropriate zones and development standards for these dispensaries, as well as any other use regulations that should apply to such establishments

This Interim Ordinance is an urgency measure and requires a four-fifths vote by the Board of Supervisors. It will expire on May 30, 2006.

RAYMOND G. FORTNER, JR.
County Counsel

By 
LAWRENCE L. HAFETZ
Principal Deputy County Counsel
Public Works Division

LLH:di

6/28/05 (requested)

7/705 (revised)

ORDINANCE NO. _____

An ordinance extending Interim Ordinance No. 2005-0042U, temporarily prohibiting establishment of medical marijuana dispensaries within the unincorporated territory of the County of Los Angeles, declaring the urgency thereof, and that this ordinance shall take effect on July 15, 2005.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Findings.

A. In 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code section 11362.5 et seq., and entitled "The Compassionate Use Act of 1996") ("Act") to enable persons who are in need of marijuana for specified medical purposes to obtain and use marijuana under limited, specified circumstances. The State legislature also enacted Senate Bill 420 in 2003 to clarify the scope of the Act, allowing local governments to adopt and enforce rules and regulations consistent with Senate Bill 420.

B. There are currently no ordinances in Title 22 of the Los Angeles County Code (the "Zoning Code") specifically regulating or monitoring the location, zoning standards, or other aspects of the facilities where medical marijuana will be dispensed to eligible persons under the Act.

C. The Zoning Code does not provide specific development regulations or definitions relative to the use or placement of dispensaries intended for the distribution of marijuana for medicinal purposes.

D. Los Angeles County ("County") has made a conscientious effort to plan for specific uses within all zone districts and to anticipate conflicts between competing land uses in order to protect the public's health, safety, and welfare.

E. The County has received several inquiries regarding applications for medical marijuana dispensaries.

F. The establishment of medical marijuana dispensaries without appropriate rules and regulations would result in the creation of negative secondary effects such as an increase in crime in the areas immediately surrounding such dispensaries and an irreversible incompatibility of land uses. Reports show that jurisdictions such as the City of West Hollywood, Alameda County, and the City of Anaheim have received and investigated a number of complaints of violent criminal activity, including armed robberies and burglaries, at or near medical marijuana dispensaries. Such criminal activity is the type of negative secondary effect associated with the presence of medical marijuana facilities that a zoning study will seek to limit.

G. In order to allow time for the County to consider and study possible enactment of the implementing regulations and to avoid the current and immediate threat to public health, safety, and welfare that would otherwise occur, it is necessary to suspend the issuance of additional approvals for and the establishment of medical marijuana dispensaries that may be in conflict with the development standards and implementing regulations the County intends to consider or study within a reasonable time.

H. A moratorium will provide the County the time to draft and adopt regulations consistent with the Act and Senate Bill 420 that will regulate the location and operation of medical marijuana dispensaries that will be consistent with the Zoning Code and compatible with surrounding neighborhoods.

I. A moratorium will also provide the County time to evaluate the impact, if any, that the recent United States Supreme Court case of Gonzales, et al. v. Raich, et al., 125 S.Ct. 2195 (June 6, 2005) has on any land use regulations that the Board may consider in regulating these facilities. The Gonzales case found that federal law prohibiting the possession, use, and distribution of marijuana is enforceable in California as to those persons who are eligible to use marijuana under the Act. The Supreme Court reasoned that Congress has the authority under the Commerce Clause to prohibit the local cultivation and use of marijuana for medicinal purposes, even if that activity is in compliance with California law. The result of the opinion is that, unless Congress acts to change federal law, medical marijuana users in California will be subject to federal prosecution under existing federal law.

SECTION 2. Interim Prohibition.

From and after the date of this ordinance, no use permit, variance, building permit, or any other entitlement for use shall be approved or issued for the establishment or operation of, and no person shall otherwise establish, a "medical marijuana dispensary" for a period of 10 months and 15 days.

For purposes of this ordinance, "medical marijuana dispensary" shall mean any facility or location where marijuana is made available, sold, transmitted, given, or otherwise provided to qualified individuals in accordance with the Act.

SECTION 3. Urgent Need.

This extension of the Interim Ordinance is urgently needed for the immediate preservation of the public health, safety, and general welfare, and it shall take effect immediately upon the expiration of Interim Ordinance No. 2005-0042U, which will expire on July 15, 2005, and the extended Interim Ordinance shall be of no further force and effect 10 months and 15 days following the date it becomes effective, unless further extended in accordance with the provisions set forth in California Government Code section 65858.

SECTION 4. Authority.

California Government Code section 65858 provides that an urgency measure in the form of an Interim Ordinance may be adopted without prior public notice by a four-fifths vote of the board of supervisors, which shall be effective for only 45 days following its date of adoption. Government Code section 65858 further provides that such an urgency measure may be extended following compliance with that section for an additional 10 months and 15 days beyond the original 45-day period, and it can be extended a second time for an additional one year.

SECTION 5. Penalties.

The definitions and penalties for land use violations that are prescribed in the Zoning Code shall apply to violations of the provisions of this Interim Ordinance.

SECTION 6. Severability.

If any provision of this Interim Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Interim Ordinance are hereby declared to be severable.

[2005-0042UEXTLHCC]